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1 **ALVERSON, TAYLOR,**
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11 *Attorneys for Defendant*
12 *Monte Bello HOA, Inc.*

9 UNITED STATES DISTRICT COURT
10 DISTRICT OF NEVADA

11 BANK OF AMERICA, N.A., successor by
12 merger to BAC HOME LOANS SERVICING,
13 LP, FKA COUNTRYWIDE HOME LOANS
14 SERVICING LP;

15 Plaintiffs,

16 vs.

17 MONTE BELLO HOMEOWNERS
18 ASSOCIATION, INC.; BELLARIA PI PBB
19 TRUST; ATC ASSESSMENT COLLECTION
20 GROUP, LLC A/K/A ANGIUS & TERRY
21 COLLECTIONS, LLC,

22 Defendants.

Case No.: 2:16-cv-456

MONTE BELLO HOMEOWNERS
ASSOCIATION, INC.'S
EMERGENCY MOTION TO EXTEND
DISCOVERY DEADLINES

[FIRST REQUEST]

21 COMES NOW, Defendant MONTE BELLO HOMEOWNERS ASSOCIATION, INC., by
22 and through its attorneys, the law firm of Alverson, Taylor, Mortensen & Sanders, and hereby
23 submits its First Request for Motion to Extend Discovery Deadlines.

24 **I. RELEVANT FACTS**

- 25 1. This is the first motion to extend time to conduct discovery.
- 26 2. This case was filed on March 2, 2016 by Bank of America, N.A. ("BANA")
- 27 against ATC Assessment Collection Group, LLC a/k/a Angius & Terry Collections, LLC
- 28

1 (“ATC”), Bellaria PI PBB Trust (“Bellaria”), Monte Bello Homeowners Association, Inc.
 2 (“Monte Bello”).¹ Generally, the claims against ATC, Bellaria, and Monte Bello centered
 3 around the foreclosure of 5124 Bellaria Place, Las Vegas, Nevada 89156 (the “Property”) on or
 4 about January 19, 2012.

5 3. BANA alleges four causes of action.

- 6 a. Quiet Title/Declaratory Judgment against All Defendants. BANA’s
- 7 claims alleges violations of its procedure due process rights, implication of
- 8 the Supremacy clause and other legal issues relating to tender of payment
- 9 and commercial reasonableness of the foreclosure sale;
- 10 b. Breach of NRS 116.1113 against Monte Bello and ATC;
- 11 c. Wrongful Foreclosure against Monte Bello and ATC;
- 12 d. Injunctive Relief against Bellaria.

13 4. Monte Bello filed its answer to the complaint on April 10, 2016. (Doc. 10).
 14 Bellaria filed its answer to the complaint on July 18, 2016. (Doc. 18). ATC filed a motion to
 15 dismiss the complaint on March 24, 2016. (Doc. 6). Subsequently, BANA’s claims for breach of
 16 good faith under NRS 116 and wrongful foreclosure were dismissed without prejudice on
 17 September 30, 2016. (Doc. 28). Presently, ATC has not answered BANA’s complaint.

18 5. Notwithstanding all parties have not answered in this case, a Discovery Plan and
 19 Scheduling Order was entered on August 15, 2016 (Doc. 23), wherein Monday, January 16, 2017
 20 was established as the lost day to complete discovery.

21 6. BANA served its initial disclosures on or about August 8, 2016. Monte Bello
 22 served its initial disclosures on January 11, 2017.

23 7. The remaining parties are in need of additional time to exchange initial
 24 disclosures required under Fed. R. Civ. P. 26(a)(1)(A).

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 28 ¹ Unless otherwise indicated, all facts are addressed in the attached Declaration of Adam R. Knecht,
 Esq.

17. It was also agreed that all documents required under Fed. R. Civ. P. 26(a)(1)(A) and all discovery previously propounded by BANA would be produced and/or responded to by January 25, 2017.

18. Accordingly, I prepared the stipulation to extend discovery and sent it to all counsel. Currently, despite various emails and voice messages, I have not heard from Bellaria or ATC regarding the stipulation, thus necessitating the instant motion.

II. ARGUMENT

The Local Rules of Practice for the United States District Court for the District of Nevada address requests for continuance and extension of time as follows:

A motion or stipulation to extend time must state the reasons for the extension requested and must inform the court of all previous extensions of the subject deadline the court granted.

LR IA 6-1(a). *Basaldu v. Goodrich Corp.*, 2009 WL 1160915, *2 (E.D. Tenn. 2009) (“The purpose of the modern civil discovery rules is to get all of the proverbial cards on the table in advance of trial.”); *Bear, Stearns Funding, Inc. v. Interface Group-Nevada, Inc.*, 2007 WL 4051179, *2 (S.D.N.Y. 2007) (“By requiring disclosure of all relevant information, the discovery rules allow ultimate resolution of disputed facts to be based on full and accurate understanding of true facts.”). The discovery rules are also available to the parties and their advocates to increase the potential for settlement in advance of trial.

For the reasons stated above, discovery and initial disclosures have been difficult to procure from Monte Bello and the other defendant parties. The remaining discovery needed in this litigation includes various parties’ initial disclosures and/or supplements thereto. Additionally, upon full disclosure of initial disclosures, the parties should be allowed to fully respond to written discovery propounded by BANA. It is anticipated that BANA will conduct the continued depositions of Bellaria, Monte Bello, and ATC, which have not been completed. After discussions with BANA, Monte Bello proposes the following schedule for completing all remaining discovery.

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III. CONCLUSION

For the foregoing reasons, Monte Bello respectfully requests that the Court grant its requested relief, extending the current discovery deadlines.

DATED this 16th day of January, 2017.

ALVERSON TAYLOR
MORTENSEN & SANDERS

By: /s/ Adam R. Knecht, Esq.
Kurt R. Bonds, Esq.
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Adam R. Knecht, Esq.
Nevada Bar No. 13166
7401 W. Charleston Blvd.
Las Vegas, NV 89117
Attorneys for Defendant
Monte Bello HOA, Inc.

IT IS SO ORDERED.



UNITED STATES MAGISTRATE JUDGE

DATED: 1-25-2017

ALVERSON, TAYLOR, MORTENSEN & SANDERS
LAWYERS
7401 WEST CHARLESTON BOULEVARD
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**DECLARATION OF ADAM KNECHT, ESQ. IN SUPPORT OF MONTE BELLO
HOMEOWNERS ASSOCIATION, INC.'S EMERGENCY MOTION TO EXTEND
DISCOVERY DEADLINES**

State of NEVADA)
)
County of CLARK) ss:

ADAM KNECHT, ESQ. being first duly sworn, deposes and says:

1. I am an attorney at the law firm of Alverson Taylor Mortensen & Sanders and represent Monte Bello Homeowners Association, Inc. in this matter, Case No. 2:16-cv-456.

2. This case was filed on March 2, 2016 by Bank of America, N.A. ("BANA") against ATC Assessment Collection Group, LLC a/k/a Angius & Terry Collections, LLC ("ATC"), Bellaria PI PBB Trust ("Bellaria"), Monte Bello Homeowners Association, Inc. ("Monte Bello"). Generally, the claims against ATC, Bellaria, and Monte Bello centered around the foreclosure of 5124 Bellaria Place, Las Vegas, Nevada 89156 (the "Property") on or about January 19, 2012.

3. BANA alleges four causes of action.

- a. Quiet Title/Declaratory Judgment against All Defendants. BANA's claims alleges violations of its procedure due process rights, implication of the Supremacy clause and other legal issues relating to tender of payment and commercial reasonableness of the foreclosure sale;
- b. Breach of NRS 116.1113 against Monte Bello and ATC;
- c. Wrongful Foreclosure against Monte Bello and ATC;
- d. Injunctive Relief against Bellaria.

4. Monte Bello filed its answer to the complaint on April 10, 2016. (Doc. 10). Bellaria filed its answer to the complaint on July 18, 2016. (Doc. 18). ATC filed a motion to dismiss the complaint on March 24, 2016. (Doc. 6). Subsequently, BANA's claims for breach of good faith under NRS 116 and wrongful foreclosure were dismissed without prejudice on September 30, 2016. (Doc. 28). Presently, ATC has not answered BANA's complaint.

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1 5. Notwithstanding all parties have not answered in this case, a Discovery Plan and
2 Scheduling Order was entered on August 15, 2016 (Doc. 23), wherein Monday, January 16, 2017
3 was established as the lost day to complete discovery.

4 6. BANA served its initial disclosures on or about August 8, 2016. Monte Bello
5 served its initial disclosures on January 11, 2017.

6 7. The remaining parties are in need of additional time to exchange initial
7 disclosures required under Fed. R. Civ. P. 26(a)(1)(A).

8 8. BANA served written discovery upon Monte Bello on or about November 22,
9 2016. Monte Bello has partially responded to such discovery.

10 9. BANA served written discovery upon Bellaria on or about November 22, 2016.
11 Bellaria has not responded to such discovery.

12 10. BANA served written discovery upon ATC on or about November 22, 2016.
13 A&T has not responded to such discovery.

14 11. BANA noticed the deposition of Bellaria, the Association, and ATC for January
15 11, 2017.

16 12. Discovery in this matter have been difficult to obtain with respect to Monte Bello.
17 A change in the management company for Monte Bello has made it difficult to communicate
18 with Monte Bello regarding necessary documents and Monte Bello's FRCP 30(b)(6) witness for
19 deposition.

20 13. After multiple attempts, I was able to contact Monte Bello's community manager.
21 It was discovered that due to the transition between community managers, Monte Bello's
22 collection files regarding the Property were sent to be stored at Iron Mountain, an offsite storage
23 facility.

24 14. After discussing the matter and discovery concerns with the community manager,
25 I have determined that it will take nearly two weeks to locate Monte Bello's collection file,
26 review it, and produce if for purposes of this litigation.
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1 15. It is also my understanding that Bellaria and ATC have had similar discovery
2 issues. For instance, ATC recently merged with Nevada Association Services, Inc. which has
3 complicated procurement of documents necessary to this matter.

4 16. On January 11, 2016, I spoke to counsel for BANA regarding my discovery
5 concerns and my inability to contact Monte Bello's 30(b)(6) witness regarding the deposition
6 noticed by BANA. Due to the circumstances, it was agreed between counsel for BANA and me
7 that I would prepare a stipulation to extend discovery from January 16, 2017 for a period of sixty
8 (60) days up to and including March 17, 2017.

9 17. It was also agreed that all documents required under Fed. R. Civ. P. 26(a)(1)(A)
10 and all discovery previously propounded by BANA would be produced and/or responded to by
11 January 25, 2017.

12 18. Accordingly, I prepared the stipulation to extend discovery and sent it to all
13 counsel. Currently, despite various emails and voice messages, I have not heard from Bellaria or
14 ATC regarding the stipulation, thus necessitating the instant motion.

15 19. The remaining discovery needed in this litigation includes various parties' initial
16 disclosures and/or supplements thereto. Additionally, upon full disclosure of initial disclosures,
17 the parties should be allowed to fully respond to written discovery propounded by BANA. It is
18 anticipated that BANA will conduct the continued depositions of Bellaria, Monte Bello, and
19 ATC, which have not been completed.

20 20. The office addresses and telephone numbers of the movant and other affected
21 parties is as follows:

22 ALVERSON, TAYLOR,
23 MORTENSEN & SANDERS
24 Adam R. Knecht, Esq.
25 7401 W. Charleston Boulevard
26 Las Vegas, Nevada 89117
27 (702) 384-7000
28 Attorney for Plaintiffs

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6224 West Desert Inn Road
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702-982-6798
Attorneys for ATC Assessment Collection Group, LLC

21. I certify that the facts stated above are true and correct to the best of my knowledge and belief.


ADAM KNECHT, ESQ.

SUBSCRIBED and SWORN to before
me this 16 day of January, 2017.


NOTARY PUBLIC

